

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

IN RE:	)	CASE NO. 16-14047
	)	
TAMMY WARREN	)	CHAPTER 7 PROCEEDING
	)	
Debtor.	)	JUDGE ARTHUR I. HARRIS

**OBJECTION TO MOTION FOR RELIEF FROM STAY**  
**AND ABANDONMENT OF DANIEL MIERAS**

Now comes Debtor, by and through counsel, and hereby objects to the Motion for Relief from Stay and Abandonment as filed with this Court by Daniel Mieras (“Movant”) as improper and unjustified.

For cause, Debtor filed a Chapter 7 Bankruptcy petition herein on July 25, 2016. Movant thereafter commenced an eviction action against Debtor in the Euclid Municipal Court on August 3, 2016 in violation of the automatic stay pursuant to 11 U.S.C. § 362 (see attached). Movant is not entitled to relief from stay because the eviction action before the state court was filed in violation of automatic stay, and therefore deemed void as a matter of law. *Easley v. Pettibone Michigan Corp.*, 990 F.2d 905 (6<sup>th</sup> Cir. 1993). Accordingly, Movant will need to dismiss its complaint against Debtor in the state court since it was filed after Debtor’s bankruptcy filing, and then restart the eviction process in compliance with Ohio law. Any order granting relief from stay in this matter must include this stipulation in order to purge Movant’s violation of the automatic stay.

WHEREFORE, Debtor demands that Movant’s Motion for Relief from Stay and Abandonment be denied, and for such other and further relief as this Court deems proper.

Respectfully submitted,

/s/ Charles J. Van Ness  
Charles J. Van Ness (0047365)  
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CERTIFICATE OF SERVICE

A copy of the foregoing Motion was sent via regular U.S. Mail (or ECF) on August 17, 2016,  
to:

David O. Simon (via ECF)  
Chapter 7 Trustee  
[documents@simonlpa.com](mailto:documents@simonlpa.com)

Sarah S. Graham (via ECF)  
Attorney for Movant  
[sgraham@pfl-law.com](mailto:sgraham@pfl-law.com)

/s/ Charles J. Van Ness  
Attorney for Debtor

**Civil Case Summary****General Information**

**Case Number :** 16CVG02876  
**Case Name :** DANIEL MIERAS v. TAMMY WARREN  
**Date Filed :** 8/3/2016  
**Case Status :** Open

**Parties**

Party Name	Party Address	Attorney Name	Label
DANIEL MIERAS	9615 DENISON AVENUE CLEVELAND, OH 44102	ROBERT FRIEDMAN	Plaintiff
TAMMY WARREN	840 EAST 236TH STREET EUCLID, OH 44123		Defendant

**Services**

Requested For	Requested On	Requested By	Party Served	Method	Status	Completed On
FED 2ND CAUSE	8/11/2016	DANIEL MIERAS	TAMMY WARREN	Regular Mail w/receipt	Perfected	8/11/2016
FED 2ND CAUSE	8/11/2016	DANIEL MIERAS	TAMMY WARREN	Bailiff in Euclid	Failed	8/12/2016

**Claims/Judgments**

Claim Number	Claim Description	Date Filed	Claim Type	Prayer Amount
1	DANIEL MIERAS v. TAMMY WARREN	8/3/2016		\$15,000.00
	<b>Judgment Number</b>	<b>Judgment</b>	<b>Judgment Date</b>	<b>Judgment Amount</b>
	1		8/12/2016	

**Hearing Information**

Description	Court Date	Court Time	Court Room	Heard By
1st Cause/Judge	9/6/2016	9:00:00 AM	2	

**Docket Information**

NOTE: The Docket Information below is an abbreviated version of the actual Docket Entry. Only the first 60 characters of each line will show.

[Click Here to display Full Docket Entry or contact the court for the full text entry.](#)

Entry Date	Entry
8/12/2016	Civil Journal Bankruptcy created in Book 127 Page 425
8/12/2016	Judgment BANKRUPTCY STAY for TAMMY WARREN rendered. Judgme
8/12/2016	NOTICE filed by DANIEL MIERAS/Plaintiff on 08/12/2016 /by a
8/12/2016	Service for FED 2ND CAUSE to TAMMY WARREN sent via Bailiff i
8/11/2016	Return of Service Form Notice sent to TAMMY WARREN
8/11/2016	FED 2ND CAUSE notice sent to TAMMY WARREN via Regular Mail w
8/11/2016	Service for FED 2ND CAUSE to TAMMY WARREN sent via Regular M
8/11/2016	FED 2ND CAUSE notice sent to TAMMY WARREN via Certified Mail
8/11/2016	FED 2ND CAUSE notice sent to TAMMY WARREN via Bailiff in Eu
8/11/2016	Hearing Scheduled Notice sent to DANIEL MIERAS

8/11/2016	<u>Paid \$25.74 for Cost/LEGAL AID - STATE receipt# 2016313592</u>
8/11/2016	<u>Paid \$10.00 for Cost/CIVIL COMPUTER FUND receipt# 201631359</u>
8/11/2016	<u>Paid \$94.00 for Cost/CIVIL FILING FEE receipt# 2016313592 b</u>
8/11/2016	<u>Paid \$0.26 for Cost/LEGAL AID - CITY receipt# 2016313592 by</u>
8/11/2016	<u>Paid \$10.00 for Cost/CIVIL SPECIAL PROJECTS receipt# 201631</u>
8/11/2016	<u>Original Claim for \$15000.00 Filed, DANIEL MIERAS</u>
8/11/2016	<u>1st Cause/Judge set for 09/06/2016 at 09:00 AM in room 2</u>

Limitation on Liability.

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